

Message Text

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44

ACTION TRSE-00

INFO OCT-01 EUR-12 EA-07 EB-07 L-03 COME-00 OMB-01 XMB-02

FRB-03 CIAE-00 INR-07 NSAE-00 ISO-00 /043 W

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R 170753Z MAR 76

FM AMEMBASSY MANILA

TO SECSTATE WASHDC 3117

INFO AMEMBASSY OTTAWA

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E.O. 11652: NA

TAGS: EFIN, RP

SUBJECT: PHILIPPINE-CANADIAN TAX TREATY

REF: MANILA 3632

1. EMBASSY HAS OBTAINED TEXT OF PHILIPPINE-CANADIAN TAX TREATY WHICH WAS SIGNED ON MARCH 11. COPIES HAVE BEEN POUCHED TO EA (WILLNER), EB (MINNIES), AND AMEMBASSY OTTAWA.

2. CONTRARY TO LOCAL PRESS ACCOUNTS, TREATMENT OF SHIPPING AND AIR TRANSPORT FOLLOWS ONE AND ONE-HALF PERCENT OR MOST FAVORED NATION FORMULA PREVIOUSLY INCORPORATED IN OTHER RP TREATIES. TREATY PROVIDES THAT "... THE TAX SO CHARGED SHALL NOT EXCEED THE LESSER OF

(A) ONE AND ONE-HALF PERCENT OF GROSS REVENUES DERIVED FROM SOURCES IN THAT STATE, AND

(B) THE LOWEST RATE OF PHILIPPINE TAX ON SUCH PROFITS DERIVED BY AN ENTERPRISE OF A THIRD STATE."

3. NON-DISCRIMINATION ARTICLE HAS PROVISIONS ADDITIONAL TO THOSE IN PRESENT PHILIPPINE-U.S. DRAFT WHICH HAVE IMPORTANT FEATURES FROM PHILIPPINE PERSPECTIVE. OPERATIVE PORTION OF THIS ARTICLE (ARTICLE XXIII IN RP/CANADA AGREE-
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MENT AND ARTICLE XXV IN RP/US DRAFT) IS QUOTED IN FULL

AS FOLLOWS:

QUOTE NOTHING IN THIS ARTICLE SHALL BE CONSTRUED SO AS TO PREVENT THE PHILIPPINES FROM LIMITING TO ITS NATIONALS THE ENJOYMENT OF TAX INCENTIVES GRANTED UNDER: (A) THE FOLLOWING ENACTMENTS: INVESTMENT INCENTIVES ACT (REP. ACT NO. 5186); EXPORT INCENTIVES ACT (REP. ACT NO. 6135) SO FAR AS THEY WERE IN FORCE ON, AND HAVE NOT BEEN MODIFIED SINCE, THE DATE OF SIGNATURE OF THIS CONVENTION, OR HAVE BEEN MODIFIED ONLY IN MINOR RESPECTS SO AS NOT TO AFFECT THEIR GENERAL CHARACTER; OR (B) ANY OTHER ENACTMENT OF THE PHILIPPINES ADOPTED IN PURSUANCE OF THE PROGRAMME OF ECONOMIC DEVELOPMENT WHICH THE COMPETENT AUTHORITIES OF THE CONTRACTING STATES AGREE SHOULD BE EXCLUDED FROM THE PROVISIONS OF THIS ARTICLE, IF IT HAS NOT BEEN MODIFIED THEREAFTER OR HAS BEEN MODIFIED ONLY IN MINOR RESPECTS SO AS NOT TO AFFECT ITS GENERAL CHARACTER. END QUOTE

4. WITH RESPECT TO TAX SPARING, RP TAX PANEL MEMBER TOLEDO ADVISES THAT LIMITED SPARING WAS AGREED, RATHER THAN FULL CREDIT ON PHILIPPINE RATES. THIS HAS EFFECT OF REDUCING RATES IN SPECIFIC AREA OF ROYALTIES, DIVIDENDS, AND INTEREST. TEXT IS COMPLICATED AND WOULD REQUIRE CONSIDERABLE FURTHER STUDY ON OUR PART BEFORE WE COULD PINPOINT EXACTLY WHERE OR IN WHAT FORM TAX SPARING FEATURES APPEAR. SINCE THEY WILL BE OF SPECIFIC INTEREST TO U.S. PANEL, THE TEXTS OF THESE ARTICLES ARE BEING SENT BY SEPTTEL.

5. SINCE FULL COPIES OF TREATY MAY NOT REACH WASHINGTON IN TIME TO BE OF USE FOR NEGOTIATIONS, SUGGEST DEPARTMENT REQUEST TELEGRAPHIC TRANSMITTAL OF ANY OTHER SPECIFIC AREAS IN WHICH CLARIFICATION IS NEEDED.
SULLIVAN

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TAX AGREEMENTS
Control Number: n/a
Copy: SINGLE
Draft Date: 17 MAR 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: BoyleJA
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976MANILA03779
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760100-0908
From: MANILA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760352/aaaabtou.tel
Line Count: 95
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION TRSE
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 MANILA 3632
Review Action: RELEASED, APPROVED
Review Authority: BoyleJA
Review Comment: n/a
Review Content Flags:
Review Date: 12 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <12 APR 2004 by CunninFX>; APPROVED <02 AUG 2004 by BoyleJA>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: PHILIPPINE-CANADIAN TAX TREATY
TAGS: EFIN, RP, CA
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006